



CITY OF SACRAMENTO

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DEPARTMENT OF POLICE

HALL OF JUSTICE
813 - 6TH STREET

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

JOHN P. KEARNS
CHIEF OF POLICE

July 16, 1986

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: REQUEST FOR OPPOSITION TO ASSEMBLY BILL 4058

SUMMARY:

AB 4058 mandates that Chiefs of Police and Sheriffs issue concealed weapons permits if the applicant establishes he/she is eligible as required in the bill.

BACKGROUND:

Existing law prohibits the unlicensed carrying of a concealed firearm, except as specified. Existing law authorizes the owning, possessing or keeping of such a firearm within a person's place of residence or business without a license.

This bill would also authorize the unlicensed carrying of a concealable firearm in those places, and would authorize the unlicensed carrying of an unloaded concealable firearm locked in a vehicle trunk or a secure box, as specified, and the carrying of an unloaded firearm within a secure box to and from a vehicle for any lawful purpose.

The existing law also authorizes the Sheriff of a County or the Chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, to issue licenses to carry a concealed pistol, revolver, or other firearm for any period of time not to exceed one year from the date of the license, or in the case of a peace officer appointed pursuant to specified provisions of existing law, three years from the date of the license.

This bill would repeal and recast the above provisions of existing law to require the sheriff of a county or the chief of police of any city or city and county, upon proof of good cause, to issue a license to carry a concealed pistol, revolver, or other concealable weapon

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within 60 days of receipt of an application if the person is (1) over age 21, (2) a resident of the jurisdiction of the licensing authority, (3) not a member of a prohibited class of persons described in specified provisions of existing law, and (4) knowledge in the safe handling of firearms, subject to reasonable restrictions or conditions which the issuing authority deems necessary to protect the public.

RECOMMENDATIONS:

The main issue in this legislation is that it takes away the discretion of the chief or sheriff to deny a concealed weapons permit if the established criteria is satisfied. This bill totally usurpes the authority of local government to issue concealed weapons permits.

I am requesting the Law and Legislation Committee oppose this legislation by corresponding with our elected representatives, and request they vote against AB 4058.

Sincerely,


JOHN P. KEARNS
CHIEF OF POLICE

JPK:ema

Ref. 7-56

ASSEMBLY BILL

No. 4058

Introduced by Assembly Member Vicencia

February 21, 1986

An act to amend Sections 12026 and 12027 of, 12027, and 12054 of, to repeal and add Section 12050 of, and to add Sections 12055, 12056, 12057, 12058, and 12059 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 4058, as amended, Vicencia. Firearms.

(1) Existing law prohibits the unlicensed carrying of a concealable firearm, except as specified. Existing law authorizes the owning, possessing, or keeping of such a firearm within a person's place of residence or business without a license.

This bill would also authorize the unlicensed carrying of a concealable firearm in those places, and would authorize the unlicensed carrying of an unloaded concealable firearm locked in a vehicle trunk or a secure box, as specified, and the carrying of an unloaded firearm within a secure box to and from a vehicle for any lawful purpose.

(2) Existing law authorizes the sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, to issue licenses to carry a concealed pistol, revolver, or other firearm for any period of time not to exceed one year from the date of the license, or in the case of a peace officer

1 while parading, or the members thereof when going to
2 and from the places of meeting of their respective
3 organizations.

4 (e) Guards or messengers of common carriers, banks,
5 and other financial institutions while actually employed
6 in and about the shipment, transportation, or delivery of
7 any money, treasure, bullion, bonds, or other thing of
8 value within this state.

9 (f) Members of any club or organization organized for
10 the purpose of practicing shooting at targets upon
11 established target ranges, whether public or private,
12 while such members are using any of the firearms
13 referred to in this chapter upon such target ranges, or
14 while going to and from such ranges.

15 (g) Licensed hunters or fishermen while engaged in
16 hunting or fishing, or while going to or returning from
17 such hunting or fishing expedition.

18 (h) Members of any club or organization organized for
19 the purpose of collecting and displaying antique or
20 historical pistols, revolvers or other firearms, while such
21 members are displaying such weapons at meetings of
22 such clubs or organizations or while going to and from
23 such meetings, or individuals who collect such firearms
24 not designed to fire, or incapable of firing fixed cartridges
25 or fixed shot shells, or other firearms of obsolete ignition
26 type for which ammunition is not readily available and
27 which are generally recognized as collector's items,
28 provided such firearm is kept in the trunk. If the vehicle
29 is not equipped with a trunk, such firearm shall be kept
30 in a locked container in an area of the vehicle other than
31 the utility or glove compartment.

32 (i) Firearms that are unloaded and locked in the
33 vehicle trunk, which has no accessibility from the
34 passenger area, unless the vehicle has no trunk, in which
35 case, the firearm shall be locked within a secure box
36 within the vehicle, excluding the utility or glove
37 compartment; and firearms that are unloaded and locked
38 within a secure box when the firearm is being carried to
39 and from the vehicle for any lawful purpose.

40 *SEC. 3. Section 12050 of the Penal Code is repealed.*

1 12050. (a) The sheriff of a county or the chief or
2 other head of a municipal police department of any city
3 or city and county, upon proof that the person applying
4 is of good moral character, that good cause exists for the
5 issuance, and that the person applying is a resident of the
6 county, may issue to such person a license to carry
7 concealed a pistol, revolver, or other firearm for any
8 period of time not to exceed one year from the date of the
9 license, or in the case of a peace officer appointed
10 pursuant to Section 830.6, three years from the date of the
11 license.

12 (b) A license may include any reasonable restrictions
13 or conditions which the issuing authority deems
14 warranted, including restrictions as to the time, place,
15 and circumstances under which the person may carry a
16 concealed firearm.

17 (c) Any restrictions imposed pursuant to subdivision
18 (b) shall be indicated on any license issued on or after the
19 effective date of the amendments to this section enacted
20 at the 1970 Regular Session of the Legislature.

21 SEC. 4. Section 12050 is added to the Penal Code, to
22 read:

23 12050. (a) The sheriff of a county or the chief of
24 police of any city or city and county shall, upon proof of
25 good cause, issue a license to carry a concealed pistol,
26 revolver, or other concealable weapon upon the person
27 if that person meets all of the following requirements:

28 (1) The person is over age 21.

29 (2) The person is a resident of the jurisdiction of the
30 licensing authority.

31 (3) The person is not a member of a prohibited class
32 described in Section 12021 or 12021.1 or Section 8100 or
33 8103 of the Welfare and Institutions Code.

34 (4) The person is knowledgeable in the safe handling
35 of firearms.

36 (b) A license issued pursuant to this section shall be
37 valid for a period of not more than one year from the date
38 of its issuance, or, in the case of a peace officer appointed
39 pursuant to Section 830.6, three years from the date of
40 issuance.

1 (c) For purposes of this section, proof of good cause
2 includes, but is not limited to, all of the following:
3 (1) Evidence that there has been or will likely be an
4 attempt on the part of a second party to cause bodily
5 injury.
6 (2) The nature of the business or occupation of the
7 applicant is such that it subjects the applicant to high
8 personal risk or susceptibility to criminal attack.
9 (3) The business or occupation of the applicant
10 involves frequent transportation of large sums of money
11 or other valuables.
12 (4) The business or occupation is of a high-risk nature
13 or requires the applicant's presence in a dangerous area.
14 For purposes of this paragraph, "dangerous area" means
15 an environment or area where numerous incidents of
16 serious crime, such as robbery, rape, extortion, theft, or
17 assault have occurred with relative frequency.
18 (5) The business or occupation of the applicant is such
19 that no reasonable means of protection, security, or risk
20 avoidance, other than carrying a concealed firearm, is
21 practical.
22 (d) A license may include reasonable restrictions or
23 conditions which the issuing authority deems necessary
24 to protect the public, including restrictions as to the time,
25 place, and circumstances under which the person may
26 carry a concealed weapon. Any restriction imposed
27 pursuant to this subdivision shall be indicated on any
28 issued license.
29 (e) The licensing authority shall grant or deny a
30 license within 60 days of receipt of a completed
31 application. Persons who are denied a license shall be
32 notified of the denial in writing. Any person whose
33 application is denied shall be entitled to a de novo
34 hearing in a superior court on the basis for the denial.
35 (f) Any applicant whose need for the license is based
36 upon his or her employment as an agent of a second party
37 or firm shall, as a condition of the issuance of a license,
38 present proof that the party or firm will assume liability
39 for the actions of the agent.

40 SEC. 5. Section 12054 of the Penal Code is amended

1 to read:

2 12054. Each applicant for a new license or for the
3 renewal of a license shall pay at the time of filing his
4 application a fee determined by the Department of
5 Justice not to exceed the application processing costs of
6 the Department of Justice for the direct costs of
7 furnishing the report required by Section 12052. After the
8 department establishes fees sufficient to reimburse the
9 department for processing costs, fees charged shall
10 increase at a rate not to exceed the legislatively approved
11 annual cost-of-living adjustments for the department's
12 budget. The officer receiving the application and the fee
13 shall transmit the fee, with the fingerprints if required, to
14 the Department of Justice. The licensing authority of any
15 city or county may charge an additional fee, not to exceed
16 ~~three dollars (\$3)~~ ten dollars (\$10), for processing any
17 such application, and shall transmit such additional fee, if
18 any, to the city or county treasury.

19 SEC. 6. Section 12055 is added to the Penal Code, to
20 read:

21 12055. (a) A license to carry a concealable firearm
22 issued pursuant to this article shall be invalid and
23 immediately revoked upon the conviction of the license
24 holder for any felony, for any crime listed in Section
25 12001.6, or upon a court adjudication that the person is a
26 danger to others as a result of a mental disorder or illness.
27 A license may not be issued to any person who had a
28 previous license revoked pursuant to this section.

29 (b) The issuing authority may temporarily, for a
30 period of not to exceed one week, suspend a license
31 where the authority determines, based upon clear and
32 convincing evidence, as set forth in affidavits by persons
33 who have personal knowledge of the specific facts, that
34 there is a substantial likelihood the licensee will use the
35 weapon to commit a felony offense.

36 SEC. 7. Section 12056 is added to the Penal Code, to
37 read:

38 12056. (a) For purposes of demonstrating knowledge
39 of the safe handling of firearms required under Section
40 12050, the applicant for a license shall present proof of

1 any one of the following:

2 (1) Completion of any law enforcement firearms
3 safety or training course, or a class offered to security
4 guards, investigators, peace officers, or to any division or
5 subdivision of law enforcement or security enforcement.

6 (2) Completion of any firearms safety or training
7 course or class available to the general public offered by
8 police, law enforcement, schools, community colleges, or
9 accredited postsecondary educational institutions.

10 (3) Completion of a hunter safety education course
11 provided by the Department of Fish and Game.

12 (4) Experience with a firearm, such as participation in
13 organized shooting competitions or military service.

14 (5) Completion of any firearms training or safety
15 course or class conducted by a private firearms instructor
16 or by any law enforcement officer designated by the
17 licensing authority.

18 (6) Completion of any National Rifle Association
19 firearms safety or training course.

20 (b) A photocopy of a certificate of completion of any
21 of the courses or classes or an affidavit from the
22 instructor, school, club, organization, or group that
23 conducted or taught the course or class attesting to the
24 completion of the course or class by the applicant, or a
25 copy of any document which shows completion of the
26 course or class or participation in firearms competition,
27 shall constitute evidence of qualifications under this
28 section.

29 SEC. 8. Section 12057 is added to the Penal Code, to
30 read:

31 12057. A temporary license may be issued on an
32 emergency basis whenever the issuing authority is
33 convinced that the person meets the requirements of this
34 article and an overriding emergency exists for the person
35 to carry the firearm. The license shall be issued for not
36 more than 60 days, and an application for a regular
37 license shall be filled out and filed as soon as reasonably
38 possible which shall, upon issuance, replace the
39 emergency license. If in the processing of the application
40 any fact is determined that prohibits possession of a

1 firearm by the applicant, or if it is determined the need
2 for the license no longer exists, the issuing officer shall
3 terminate the temporary license.

4 SEC. 9. Section 12058 is added to the Penal Code, to
5 read:

6 12058. Notwithstanding any other provision of law,
7 license applications and the licenses shall not be deemed
8 public records within the meaning of the California
9 Public Records Act.

10 SEC. 10. Section 12059 is added to the Penal Code, to
11 read:

12 12059. (a) A chief of police of any city may delegate
13 his or her licensing authority under this article to the
14 sheriff of the county in which the city is located.

15 (b) No county sheriff, city police chief, or their
16 authorized representatives shall incur any liability as a
17 result of the lawful performance of their duties under this
18 article.

19 SEC. 11. No reimbursement is required by this act
20 pursuant to Section 6 of Article XIII B of the California
21 Constitution because the local agency or school district
22 has the authority to levy service charges, fees, or
23 assessments sufficient to pay for the program or level of
24 service mandated by this act.